

# Exhibit 8

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF SOUTH CAROLINA  
3 COLUMBIA DIVISION

4 THE SOUTH CAROLINA STATE  
5 CONFERENCE OF THE NAACP

6 and

7 TAIWAN SCOTT, ON BEHALF OF HIMSELF  
8 AND ALL OTHER SIMILARLY SITUATED  
9 PERSONS,

10 Plaintiffs,

11 vs.

12 Case No. 3:21-CV-03302-JMC-TJH-RMG

13 THOMAS C. ALEXANDER, IN HIS OFFICIAL  
14 CAPACITY AS PRESIDENT OF THE SENATE;  
15 LUKE A. RANKIN, IN HIS OFFICIAL CAPACITY  
16 AS CHAIRMAN OF THE SENATE JUDICIARY  
17 COMMITTEE; MURRELL SMITH, IN HIS OFFICIAL  
18 CAPACITY AS SPEAKER OF THE HOUSE OF  
19 REPRESENTATIVES; CHRIS MURPHY, IN HIS  
20 OFFICIAL CAPACITY AS CHAIRMAN OF THE HOUSE  
21 OF REPRESENTATIVES JUDICIARY COMMITTEE;  
22 WALLACE H. JORDAN, IN HIS OFFICIAL CAPACITY  
23 AS CHAIRMAN OF THE HOUSE OF REPRESENTATIVES  
24 ELECTIONS LAW SUBCOMMITTEE; HOWARD KNAPP,  
25 IN HIS OFFICIAL CAPACITY AS INTERIM  
EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA  
STATE ELECTION COMMISSION; JOHN WELLS,  
JOANNE DAY, CLIFFORD J. EDLER, LINDA MCCALL,  
AND SCOTT MOSELEY, IN THEIR OFFICIAL  
CAPACITIES AS MEMBERS OF THE SOUTH CAROLINA  
STATE ELECTION COMMISSION,

Defendants.

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DEPOSITION OF: MOON DUCHIN, PHD  
(Via Videoconference)

DATE: Wednesday, June 22, 2022

TIME: 10:13 a.m.

1 and demographic geography of South Carolina.

2 Q. And what qualifies you to give the  
3 opinion as to what may or may not have been in their  
4 minds?

5 A. Well, I'm certainly qualified to opine  
6 that it may or may not have been in their minds. I  
7 think that is almost tautological. And I do not  
8 presume to say what was, in fact, in their minds.  
9 I'm describing a general state of affairs based, as  
10 you said, on my experience.

11 Q. And so you don't know one way or the  
12 other, just to summarize, how the general assembly  
13 may or may not have used race in drawing its --

14 A. That's correct. I have no knowledge of  
15 any procedural details.

16 Q. Have you discussed it with any member of  
17 the General Assembly?

18 A. I have not, to my knowledge, met any  
19 member of the General Assembly, whether in person or  
20 virtual.

21 Q. And how about any staffer?

22 A. No.

23 Q. And second-tier requirements, I think  
24 you list four here, Contiguity, Compactness,  
25 Communities of interest and political boundaries.

1 District 2.

2 Q. And back on page 23, if I'm reading this  
3 correctly, each of these shaded boxes, does it cover  
4 a range of 1 percent BVAP or not necessarily?

5 A. I do not remember the width of the bins.  
6 So it might be 1 percent. It's certainly in the  
7 neighborhood of 1 percent.

8 Q. Okay. And you say here that the State's  
9 plan is especially low, which I understand to be the  
10 25.4 percent number?

11 A. Yes. Low in comparison with the  
12 histogram. That's right.

13 Q. With the histogram. Right.

14 A. In fact, it's in the lowest visible bar.

15 Q. But what is the standard for determining  
16 whether a district is especially low?

17 A. The term "especially" is not meant to be  
18 a term of art. And I think you will find that if  
19 you look at the way ensemble evidence has been  
20 interpreted, consistently, both researchers and  
21 courts have been resistant to specify a cutoff for  
22 what an outlier -- of what would constitute an  
23 outlier. But I think being in the lowest visible  
24 bar is a very good indication of being especially  
25 low.

1 Q. But as you said, there is no specific  
2 standard as to what constitutes an outlier.

3 Correct?

4 A. That's right. There is no universal  
5 standard.

6 Q. And you say that the most neutral plans  
7 are at or near the 30 percent BVAP. Is that right?

8 A. Yes, it does say that.

9 Q. And you're referring to, kind of, the  
10 shaded boxes there that more or less anchor around  
11 .3?

12 A. That's right. Sorry to interrupt. What  
13 you might call the bulk of the ensemble looks to be  
14 occurring at 30 percent plus or minus, you know, 5.

15 Q. Do you happen to know what the average  
16 BVAP in the second highest BVAP district in the  
17 ensemble plans is?

18 A. I don't have that number in front of me.

19 Q. And it looks like the largest tranche is  
20 this tallest box here which, as we discussed, may be  
21 29 percent to 30 percent, or something in that  
22 range, because we don't -- stipulating we don't know  
23 what the range is that's being shown by that box.

24 A. No, I do think it is 1 percent, as you  
25 said, because it looks like there are ten histogram

1           A.     That has nothing to do with the race of  
2     the voter. I agree.

3           Q.     Let's move to page 26, Figure 12. And  
4     it looks like this top chart in 12 -- or this top  
5     histogram, to be more precise, is a histogram of  
6     Table 7. Is that right?

7           A.     That's right. It shows, I hope, if I  
8     don't have any typos, the numbers that you see in  
9     the key should match the total effectiveness numbers  
10    in the table.

11          Q.     And this bottom chart is a histogram  
12    that shows other Democratic -- outcomes for other  
13    Democratic candidates in 63 other races. Is that  
14    right?

15          A.     It is --

16          Q.     Or perhaps it's nine races disaggregated  
17    over or reconstituted over seven districts.

18          A.     We were just rushing to agree with each  
19    other. It is nine contests times seven districts.

20          Q.     So this is nine statewide races.

21          A.     Correct.

22          Q.     Reconstituted in the seven districts in  
23    each of the plans.

24          A.     That's right.

25          Q.     And the total numbers are the number of

1 instances in which the Democratic candidate won. Is  
2 that right?

3 A. Yes.

4 Q. And if we go to page 27, it looks like  
5 these elections are listed on page 27.

6 A. Let's see.

7 Q. In the second full paragraph which  
8 starts "This finding"?

9 A. That's right. Seven more general  
10 elections are evaluated, and I list them.

11 Q. And do you know whether racially  
12 polarized voting was present in any of those  
13 elections?

14 A. I don't know. I have not read any  
15 report on that matter, but I think it is general  
16 common knowledge that statewide elections in the  
17 last ten years in South Carolina tend to be racially  
18 polarized.

19 Q. And if we go back to the bottom  
20 histogram of Figure 12, it looks like both the  
21 previous and the enacted plans perform -- or  
22 generate eight wins for the Democrats. Is that  
23 right?

24 A. That's right.

25 Q. And it's ten in the Harpootlian and LWV

1 part and parcel of redistricting. Is that right?

2 A. Yes.

3 Q. Is it your reading that the Guidelines  
4 direct the General Assembly, when faced with such  
5 tradeoff between minority voting strength on the one  
6 hand and a second-tier consideration on the other  
7 hand, to choose the option that prioritizes minority  
8 voting strength?

9 A. I think that's the plain language here.  
10 And let me stipulate that I might not have written  
11 it exactly this way. But reading the way they wrote  
12 it, I do think that's what they say.

13 Q. Okay. And have you discussed the  
14 Guidelines with whoever wrote them?

15 A. I certainly haven't. And I have no idea  
16 who wrote them.

17 Q. And do you know one way or another  
18 whether the standard in the Guidelines was simply  
19 meant to be an articulation of what Section 2 of the  
20 Voting Rights Act requires?

21 A. Not simply. It says that it goes beyond  
22 the Voting Rights Act. And both sets of the  
23 Guidelines reference other principles such as equal  
24 protection. So it's not simply a recording of  
25 Section 2.



1 REDIRECT EXAMINATION

2 BY MR. GORE:

3 Q. Ms. Aden just asked you about the  
4 Guidelines and the references, the reference to  
5 dilution of minority vote strength. Do you recall  
6 that?

7 A. Yes.

8 Q. And do you know what the Guidelines  
9 definition or standard for dilution of minority  
10 voting strength is?

11 A. It is my recollection that there is no  
12 definition offered. But in the interest of time, I  
13 will leave it at that.

14 Q. And have you discussed that definition  
15 with the author of the Guidelines?

16 A. I am not aware of who authored the  
17 Guidelines.

18 MR. GORE: Nothing further.

19 (The deposition was concluded at 5:50 p.m.)

20 (The deponent does not waive reading and signing of  
21 this deposition)

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